

DRAFT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

08 CRIM. 870

UNITED STATES OF AMERICA :

FILED UNDER SEAL

- v. - :

INDICTMENT

ROBEL JOSE HERNANDEZ RODRIGUEZ, :  
DANIEL GUZMAN, and :  
JAMIE LNU, :

08 Cr.

Defendants. :

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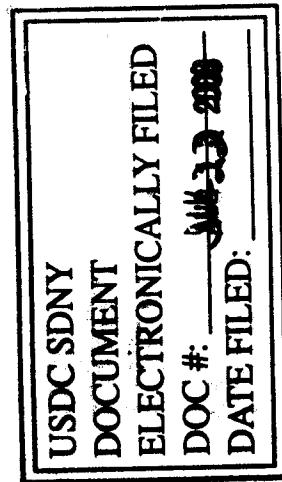
COUNT ONE

(Conspiracy to Commit Health Care Fraud)

The Grand Jury charges:

Background

1. The New York State Medicaid Program (the "Medicaid Program") is a federal and state funded plan, affecting commerce, that serves individuals and families who meet specified financial and other eligibility requirements, and certain other individuals who lack adequate resources to pay for medical care. The Medicaid Program provides payment for medical services and products ranging from routine preventive medical care for children to institutional care for the elderly and disabled. Among the specific medical services and products provided by the Medicaid Program are prescription drugs. The Medicaid Program reimburses service providers, such as physicians and pharmacies, directly for any medications or services provided to Medicaid Program beneficiaries.



2. At all times relevant to this Indictment, Broadway Pharmacy was located in New York, New York, and was enrolled in the New York State Medicaid Program as a service provider.

3. At all times relevant to this Indictment, ROBEL JOSE HERNANDEZ RODRIGUEZ, the defendant, was the owner of Broadway Pharmacy.

4. At certain times relevant to this Indictment, DANIEL GUZMAN, the defendant, was a senior employee at Broadway Pharmacy with supervisory responsibilities.

5. At certain times relevant to this Indictment, JAIME LNU, the defendant, worked as a pharmacy technician at Broadway Pharmacy.

**The Fraudulent Scheme**

6. As a Medicaid enrolled pharmacy, Broadway Pharmacy was supposed to dispense prescription drugs to Medicaid beneficiaries, submit claims to the Medicaid Program for reimbursement for those drugs, and receive payments from the Medicaid Program based on those claims.

7. Between in or about April 2007 and in or about November 2007, ROBEL JOSE HERNANDEZ RODRIGUEZ, DANIEL GUZMAN, and JAIME LNU, the defendants, and others known and unknown, engaged in a scheme to defraud the Medicaid Program by fraudulently obtaining reimbursements from the Medicaid Program for prescription drugs that were not in fact dispensed.

8. As part of the scheme, ROBEL JOSE HERNANDEZ RODRIGUEZ, DANIEL GUZMAN, and JAIME LNU, the defendants, and others known and unknown, accepted prescriptions from Medicaid beneficiaries and promised to pay the beneficiaries kickbacks in exchange for the beneficiaries' agreement not to fill the prescriptions.

9. After receiving prescriptions from Medicaid beneficiaries, ROBEL JOSE HERNANDEZ RODRIGUEZ, DANIEL GUZMAN, and JAIME LNU, the defendants, and others known and unknown, then submitted phony reimbursement claims to the Medicaid Program, in which claims Broadway Pharmacy falsely represented that the prescription drugs had been dispensed and requested reimbursement for the full value of those prescriptions drugs. After Broadway Pharmacy received reimbursement from the Medicaid Program for the prescription drugs (which had not actually been dispensed), RODRIGUEZ, GUZMAN, LNU, and others known and unknown, made the promised cash payments to the Medicaid beneficiaries. The payments made by the defendants, and others known and unknown, to the Medicaid beneficiaries were a fraction of the total reimbursement value that the Medicaid Program paid to Broadway Pharmacy for each prescription.

10. Through this fraudulent scheme, Broadway Pharmacy obtained the full value of the Medicaid reimbursement for the drug prescriptions, pocketing the difference between the Medicaid

reimbursement and the amounts that ROBEL JOSE HERNANDEZ RODRIGUEZ, DANIEL GUZMAN, and JAIME LNU, the defendants, and others known and unknown, paid to purchase the prescriptions from Medicaid beneficiaries.

**Statutory Allegation**

11. From in or about April 2007 through in or about November 2007, in the Southern District of New York and elsewhere, ROBEL JOSE HERNANDEZ RODRIGUEZ, DANIEL GUZMAN, and JAIME LNU, the defendants, and others known and unknown, unlawfully, knowingly, and wilfully combined, conspired, confederated and agreed together and with each other to commit health care fraud, in violation of Title 18, United States Code, Section 1347.

**Object of the Conspiracy**

12. ROBEL JOSE HERNANDEZ RODRIGUEZ, DANIEL GUZMAN, and JAIME LNU, the defendants, and others known and unknown, unlawfully, wilfully, and knowingly, would and did execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program, to wit, the Medicaid Program, and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, a health care benefit program, to wit, the Medicaid Program, in connection with the delivery of and payment for health care benefits, items, and services, to

wit, prescription drugs, in violation of Title 18, United States Code, Section 1347.

**The Means And Methods Of The Conspiracy**

13. Among the means and methods by which ROBEL JOSE HERNANDEZ RODRIGUEZ, DANIEL GUZMAN, and JAMIE LNU, the defendants, and others known and unknown, would and did carry out the conspiracy were the following:

- a. The defendants, and others known and unknown, received prescriptions from Medicaid beneficiaries, in exchange for cash and/or merchandise instead of the prescribed drugs; and
- b. The defendants, and others known and unknown employed at Broadway Pharmacy, submitted and caused to be submitted phony claims to the Medicaid Program for reimbursement for the prescription drugs that had purportedly been provided to the beneficiaries, but which, in truth and in fact, had never been dispensed to the Medicaid beneficiaries.

**Overt Acts**

14. In furtherance of the conspiracy and to effect the object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

- a. On or about June 28, 2007, JAMIE LNU, the defendant, discussed the prices at which Broadway Pharmacy would purchase prescription drugs with a cooperating witness who was a Medicaid beneficiary (the "CW");
- b. On or about June 29, 2007, ROBEL JOSE HERNANDEZ RODRIGUEZ and DANIEL GUZMAN, the defendants, paid the CW approximately \$410 in exchange for six prescriptions;
- c. On or about August 2, 2007, RODRIGUEZ and GUZMAN advised the CW, who had brought an undercover Medicaid Program investigator posing as a Medicaid beneficiary to Broadway Pharmacy, in sum and substance, that in the future the CW could bring to the pharmacy, and sell, prescriptions written to other beneficiaries, but should not bring to the pharmacy the actual beneficiaries themselves; and
- d. On or about November 21, 2007, ROBEL JOSE HERNANDEZ RODRIGUEZ, the defendant, paid the CW approximately \$240 for five prescriptions that were not actually filled.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Health Care Fraud)

The Grand Jury further charges:

15. The allegations contained in Paragraphs 1 through 10, and 13 and 14 are repeated and realleged as if set forth fully herein.

16. From in or about April 2007 through in or about November 2007, in the Southern District of New York and elsewhere, ROBEL JOSE HERNANDEZ RODRIGUEZ, DANIEL GUZMAN, and JAMIE LNU, the defendants, and others known and unknown, unlawfully, wilfully, and knowingly, executed and attempted to execute a scheme and artifice to defraud a health care benefit program, to wit, the Medicaid Program, and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, a health care benefit program, to wit, the Medicaid Program, in connection with the delivery of and payment for health care benefits, items, and services, to wit, prescription drugs.

(Title 18, United States Codes, Sections 1347 and 2.)

Keith Miller  
FOREPERSON

Michael J. Garcia  
MICHAEL J. GARCIA *ssr*  
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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INDICTMENT

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(Title 18, United States Code, Sections 1349,  
1347 & 2.)

Michael J. Garcia  
United States Attorney.

A TRUE BILL

Keith Miller  
Foreperson.

Indictment filed under seal. A/c/s issued for all Dfs.

SKM  
7/21/08

Francis, J.